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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,404	10/15/2003	Todd Snell	4012M	6833

7590
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01/18/2007

EXAMINER

WOOD, KIMBERLY T

ART UNIT

PAPER NUMBER

3632

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/686,404

Applicant(s)

SNELL, TODD

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is an office action for serial number 10/686,404.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the applicant claims limitations such as "top edge portion", "bottom edge portion", "first and second opposed ends" when referring to the one-piece rain gutter support structure, however the specification does not include such limitations within the disclosure. The applicant should use the terminology within the claims or make the terminology within the claims consistent with the terminology in the specification which would correct the indefiniteness of the claims.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "top edge portion", "bottom edge portion", "first and second opposed ends"; and a gutter cover engagement portion extending upward ***from an intermediate or middle portion*** of the support structure; a middle portion

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located on said top edge portion between said first and second ends and extending upward with respect to said **top edge portion** and forward with respect to said first end of the support portion must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35

U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 and 17 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the gutter cover hanger apparatus including a bottom-located support structure 12, a gutter engagement portion 14 extending upward from a front portion of the support structure 12, and a gutter cover engagement portion 16 extending upward from an intermediate or middle portion of the support structure 12, does not reasonably provide enablement for a gutter support structure having a first and second opposed ends, top edge portion and a bottom edge portion, and a middle portion located on said top edge portion between said first and second ends and extending upward with respect to said top edge portion and forward with respect to said first end of the support portion. The

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specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. the applicant claims limitations such as "top edge portion", "bottom edge portion", "first and second opposed ends" when referring to the one-piece rain gutter support structure, however the specification does not include such limitations within the disclosure. The applicant should use the terminology within the claims or make the terminology within the claims consistent with the terminology in the specification which would correct the indefiniteness of the claims. The examiner can not be sure of where or how the middle portion extends from the support structure (12) therefore the limitations involving the gutter cover engagement portion and the second gutter engagement portion are also indefinite due to the claim referring back to the middle portion as a point of reference. The specification discloses a bottom-located support structure however the specification does not clearly disclose the bottom portion or top portion of the support structure which makes it almost impossible to determine where the top portion of the support structure would be located relative to the gutter cover engagement portion and the gutter engagement portion as disclosed by the specification. The applicant may want to

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consider providing a figure indicating where each of the structural limitations (top edge portion, middle portion, bottom edge portion, first and second opposed ends) can be found on the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly

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or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5 and 7-13 are rejected, as best understood, under 35 U.S.C. 102(e) as being anticipated by Cobb 6,959,512 (serial number 10/458,562). Applicant is reminded that the gutter cover and gutter have not been claimed and therefore the claims are directed to the subcombination of the hanger apparatus. Cobb discloses a gutter support structure (near 50a), a first gutter engagement portion (14a), a gutter cover engagement portion (near 120), a second gutter engagement portion (near 49a and 54a), reinforcement means comprising transverse webs (85a, 86a, and 88a).

Claims 1-14 and 17 are rejected, as best understood, under 35 U.S.C. 102(b) as being anticipated by Morandin et al.

(Morandin) 5,617,678. Applicant is reminded that the gutter cover and gutter have not been claimed and therefore the claims are directed to the subcombination of the hanger apparatus. Morandin discloses a gutter support structure (26), a first gutter engagement portion (30) being L-shaped, a gutter cover engagement portion (50, 24, and 52), a second gutter engagement

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portion (80, 81, 82, 38, 40 and 84,)), reinforcement means (44 and 42).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cobb 6,959,512 in view Morandin 5,617,678. Cobb discloses all of the limitations of the claimed invention except for the L-shaped gutter engagement portion and reinforcement means comprising a reinforcement central transverse web member. Morandin discloses the L-shaped gutter engagement portion (30) and reinforcement means (44 and 42). It would have been obvious to one having ordinary skill in the art to have modified Cobb to have included the L-shape to the gutter engagement portion and the reinforcement means as taught Morandin for the purpose of providing a better means of

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attaching the cover to the gutter and for providing a stronger e apparatus.

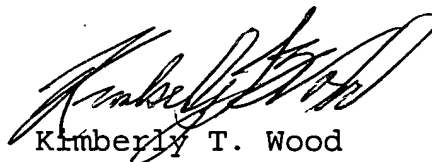
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kimberly T. Wood
Primary Examiner
Art Unit 3632

January 7, 2007